
(2014) 04 UK CK 0030
In the Uttarakhand High Court
Case No : W.P. (S./S.) No. 1598 of 2013

Dharmendra Rawat

APPELLANT

Vs

State of Uttarakhand

RESPONDENT

Date of Decision : 01-04-2014

Acts Referred:

Citation : (2014) 105 ALR 345

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Manoj Tiwari and Alok Mehra, Advocate for the Appellant; B.P.S. Mer, Advocate for the Respondent

Final Decision : Allowed

Judgement

Sudhanshu Dhulia, J.—The petitioners before this Court were appointed as Primary School Teachers in District Dehradun. Subsequent to their joining, as Primary School Teacher, and after putting in some years as Teachers in Primary Schools, they were sent on deputation (after facing a selection process done before duly Appointment Committee), as "Coordinator, Cluster Resource Centre. The job of a Coordinator in a Cluster Resource Centre in various centers is primarily to do Administrative work relating to Elementary Schools and Senior Elementary Schools in the Districts. The main difference between the two, however, is that the pay scale of Primary School Teacher is Rs. 4,500-7,000 whereas the pay scale of Coordinator in Cluster Resource Centre is Rs. 5,500-9,000. All the present petitioners were sent on deputation as Coordinator of Cluster Resource Centre way back in the year 2004, but since the State refused to give them the higher pay scale of Coordinator, they were constrained to file a writ petition being W.P.S.S. No. 1732 of 2007 before this Court, which was allowed vide order dated 26.7.2011 wherein direction was given to the State to give the petitioner higher pay scale of a Coordinator, Cluster Resource Centre. Aggrieved by the said order, the State, filed a Special Appeal before this Court, which was dismissed vide order dated 20.7.2012. Thereafter the State preferred

SLP before the Hon"ble Apex Court. It appears that initially an interim order was granted by the Hon"ble Apex Court, but later vide order dated 10.12.2012, it was vacated by passing following order:

"Leave granted.

The appeal will be heard on the SLP paper book. Additional documents, if any, may be filed by the parties.

We have heard learned Counsel for the parties on the question of interim relief. We are convinced that ad-interim order dated 31st August, 2012, deserves to be vacated. We order accordingly."

2. As of now the SLP is pending before the Hon"ble Apex Court. Meanwhile, since the higher pay scale was still not given to the petitioners they were constrained to file a contempt petition, and during the pendency of the same, higher pay scale was given to the petitioners from February, 2013 and consequently, the contempt petition was disposed of accordingly.

3. This being the state of affairs as of now the petitioners aggrieved by the impugned order dated 24/25.9.2013 (Annexure No. 5 to the writ petition) by which the petitioners have been sent back to their parent department as a Primary School Teachers, where they were earlier working. It is this order which presently challenged before this Court.

4. Learned Counsel for the State Mr. B.P.S. Mer argues that the petitioners have absolutely no lien on the post of Co-ordinator. Their lien is with the Primary School Teacher where they were at the time of their appointment. It was very clear that there is no tenure fixed for their service as a Co-ordinator and State can revert them back to their original department at any point of time.

5. Mr. Tiwari, Senior Advocate for the petitioners on the other hand argues that their lien is with the Primary School Teachers, but points out that there are about 82 Co-ordinators in the Cluster Resource Centre who are working in District Dehradun and some of them, even prior to the present petitioners. But why the petitioners have been picked for this repatriation is that they have come before this Court raising their grievance. Therefore, the action of the respondents is totally arbitrary against the petitioners.

6. This Court has examined the impugned order dated 24/25.9.2013 whereby there are some persons, who have been repatriated to their original department. The petitioners are the persons who had earlier filed a writ petition before this Court of which the matter is still pending before the Hon"ble Apex Court. On the strength of the order of this Court, they are getting the higher pay scale. In the counter-affidavit it has been mentioned that the petitioner were sent back, as the State had to give them the higher pay scale, at present the requirement of their work is in their original department.

7. This being the admitted position, though normally this Court would not

interfere in such matter, as admittedly the petitioners have absolutely no lien to the post of Coordinator but since the action of the respondent in the present case is a nakedly arbitrary an interference of this Court is called for in the matter.

8. Accordingly, the writ petition is allowed. The order dated 24/25.9.2013 passed by respondent No. 3 (Annexure No. 5 to the writ petition) is hereby quashed. However, the petitioners shall continue to work as a Coordinator, Cluster Resource Centre. Having said this and made the above determination since admittedly the petitioners have no lien on the post of Coordinator, Cluster Resource Centre and the impugned order presently been quashed only on the question of arbitrariness, as there is a clear pick and choose policy adopted in the matter, a liberty is given to the State Government to repatriate the Coordinators, Cluster Resource Centre to their parent department, but under a Scheme or a Policy and not arbitrarily as they have presently been done. In case the petitioners are repatriated as per any scheme or order, they would have no cause of action before this Court, as clearly the petitioners have no lien as Coordinator Cluster Resource Centre.